

REMARKS

The Applicants appreciate the thorough examination of the present application that is reflected in the Office Actions of September 8, 2004, March 28, 2005, January 20, 2006, June 20, 2006, and December 5, 2006. In the following remarks, the Office Action of December 5, 2006 will be referred to as "the Office Action."

This response is submitted in reply to the Office Action. In the Office Action, the Examiner required a restriction for:

The species drawn to value of the predetermined threshold applies to a plurality of deployed services, which appears to be the subject of at least claims 35 and 36.

The species drawn to value of the predetermined threshold applies to a plurality of network locations, which appears to be the subject matter of at least claims 37 and 38.

The Office Action further states that "Claim 25 is generic." The Applicants further submit that independent Claims 48 and 50 are generic and that dependent Claims 26, 28-34, 39-47, and 52-57 are also generic.

The Applicants hereby provisionally elect the species of Claims 35 and 36 with traverse. The Applicants respectfully request that the requirement for restriction be withdrawn for the following reasons. As set forth in the Manual Of Patent Examining Procedure (MPEP):

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent ... or distinct as claimed; and
- (B) There *>>would< be a serious burden on the examiner if restriction is >not< required.

MPEP, Sec. 803(I). In this application, there would be no serious burden on the examiner if restriction is not required because all of the claims have already been subjected to extensive prosecution (including four Office Actions on the merits of patentability, four corresponding responses from the Applicants, and an Appeal Brief). Moreover, all claims of both Groups are patentable for at least the reasons set forth in the Amendment filed on September 7, 2006.

Accordingly, the criteria for a proper requirement for restriction have not been met, and withdrawal of the requirement for restriction is respectfully requested.

In the event that the Restriction Requirement is maintained, this election is made without prejudice to the Applicants' right to pursue non-elected claims (including Claims 37 and 38) in a divisional application(s). The Applicants agree that unpatentability of any of Claims 35 and/or 36 does not necessarily imply unpatentability of any of Claims 37 and/or 38. Similarly, unpatentability of any of Claims 37 and/or 38 does not necessarily imply unpatentability of any of Claims 35 and/or 36.

The Applicants respectfully submit that this application is in condition for substantive examination, which action is requested. The Applicants further request allowance of all claims for at least the reasons set forth in the Amendment filed on September 7, 2006.

Statement Of Substance Of Interview

The Applicants sincerely appreciate all courtesies extended by the Examiner during the telephonic interview (initiated by the Examiner) of November 16, 2006. In particular, the Applicants appreciate the Examiner's indication that independent Claim 25 would be allowable if amended to include the recitations of dependent Claims 30, 31, and 32, and that independent Claims 48 and 50 would also be patentable if similarly amended. In this Amendment, the Applicants have added new dependent claims 52-57 incorporating subject matter that the Examiner has indicated to be allowable.

More particularly, each of Claims 52, 54, and 56 (respectively depending from Claims 25, 48, and 50) includes recitations corresponding to combined recitations of Claims 30, 31, and 32. Each of Claims 53, 55, and 57 (respectively depending from Claims 25, 48, and 50) includes recitations corresponding to combined recitations of Claims 29, 30, 31, and 32.

The Applicants have not amended independent Claims 25, 48, and 50 because these claims are patentable for the reasons presented with the Applicants' Amendment of September 7, 2006. The remarks presented with the Applicants' Amendment of September 7, 2006, are not

In re Peter J. Brittenham, *et al.*
App.Ser.No. 09/864,607
Filed: May 23, 2001
Page 13

repeated herein for the sake of conciseness. The remarks presented with the Applicants' amendment of September 7, 2006, however, are incorporated herein by reference.

The Applicants respectfully submit that this paper meets all requirements for a Statement Of Substance of an Interview. If the Examiner should disagree, the Examiner is asked to call the undersigned attorney (Scott C. Hatfield at 919 854-1400) at his earliest convenience.

Consideration of Applicants' IDS Is Respectfully Requested

The Applicants respectfully request consideration of the Information Disclosure Statement (IDS) filed on March 10, 2006, a copy of which was attached with the Applicants' response filed on September 7, 2006. Copies of the IDS and Form PTO-1449 are also available on the U.S. Patent Office Public PAIRS system. As all requirements of 37 C.F.R. Sec. 1.97 and 1.98 have been met with respect to this IDS, consideration thereof is respectfully requested in due course.

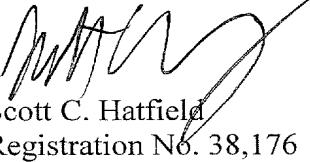
In re Peter J. Brittenham, *et al.*
App.Ser.No. 09/864,607
Filed: May 23, 2001
Page 14

CONCLUSION

Accordingly, the Applicants submit that all pending claims in the present application are in condition for allowance for at least the reasons presented in the Applicants' Response of September 7, 2006, and allowance of all claims is respectfully requested in due course.

If any extension of time for the accompanying response or submission is required, the Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to our Deposit Account No. 50-0220.

Respectfully submitted,



Scott C. Hatfield
Registration No. 38,176

USPTO Customer No. 46589
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401